

Notice of Allowability

Application No.

10/713,796

Examiner

John J. Figueroa

Applicant(s)

VAN BATENBURG ET AL.

Art Unit

1712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to After-Final Amendment of 6/27/2007.
2. ☒ The allowed claim(s) is/are 19 and 23.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Randall C. Brown on July 5, 2007. The application has been amended as follows:

23. (Previously Presented) A liquid gel concentrate composition, comprising:
at least one unhydrated hydratable polymer dispersed in an aqueous sodium formate solution and an inhibitor, wherein sodium formate together with an the inhibitor comprising a boron compound and a pH adjusting compound in the aqueous formate solution, inhibits hydration of the at least one unhydrated hydratable polymer, wherein the at least one unhydrated hydratable polymer yields viscosity upon hydration, the unhydrated hydratable polymer comprising a polysaccharide selected from the group consisting of guar gum, depolymerized hydroxypropyl guar, carboxymethyl guar and carboxymethylhydroxypropyl guar, and being present in an amount of from about 100 to about 6000 lbs/1000 gals of the aqueous sodium formate solution; and
a suspending agent comprises a succinoglucan biopolymer for suspending the at least one unhydrated hydratable polymer in the liquid gel concentrate.

Reasons for Allowance

2. The following is an examiner's statement of reasons for allowance:

the prior art does not teach or suggest a liquid gel concentrate composition comprising a hydratable polymer in an aqueous formate solution, an inhibitor comprising a boron compound, a pH adjusting compound and a succinoglucan biopolymer suspending agent for said hydratable polymer,

wherein said hydratable polymer is guar gum, or a guar derivative as recited in the claims, that is present in an amount of from 100 to about 6000 pounds/gallon of aqueous sodium formate solution.

The closest prior art are USPN 4,336,145 to Briscoe; USPN 4,536,297 to Loftin; and USPN 5,728,652 and USPN 6,103,671, both to Dobson, Jr.

Briscoe and Loftin teach a liquid gel concentrate comprising an aqueous solution and a hydratable polymer but Briscoe does not disclose the solution further comprising a formate salt. Neither Loftin (nor Briscoe) disclose or suggest a gel concentrate composition having an inhibitor comprising boron nor do they suggest the solution containing a suspending agent that is a succinoglucan biopolymer.

Similarly, the Dobson, Jr. documents disclose a gel composition containing a sodium formate solution and a hydratable polymer, but neither reference teaches said gel composition to further comprise a boron-containing inhibitor and/or a succinoglucan biopolymer as a suspending agent.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

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accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

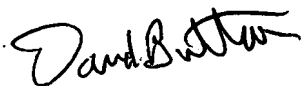
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John J. Figueroa whose telephone number is (571) 272-8916. The examiner can normally be reached on Mon-Thurs 8:00-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski can be reached on (571) 272-1302. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JJF/RAG



DAVID J. BUTTNER
PRIMARY EXAMINER